

AMENDED IN ASSEMBLY JUNE 15, 2014

AMENDED IN ASSEMBLY JUNE 2, 2014

AMENDED IN SENATE JANUARY 27, 2014

SENATE BILL

No. 506

Introduced by ~~Senator~~ *Senators Hill and Wolk*

February 21, 2013

~~An act to amend, repeal, and add Section 11100 of, and to add and repeal Section 11100.02 of, the Health and Safety Code, relating to controlled substances. An act to add Article 11 (commencing with Section 7730) to Chapter 1 of Division 4 of the Public Utilities Code, relating to hazardous materials.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 506, as amended, Hill. ~~Ephedrine: retail sale. Railroad Tank Car Hazardous Materials Safety Fund.~~

Existing law establishes the Railroad Accident Prevention and Immediate Deployment Force in the California Environmental Protection Agency and designates the force as being responsible for providing immediate onsite response capability in the event of a large-scale release of toxic materials resulting from a surface transportation accident. Existing law requires the agency to develop a state railroad accident prevention and immediate deployment plan, in consultation with specified state entities, other potentially affected state, local, or federal agencies, and affected businesses, and designates the force as being responsible for implementing the plan, acting cooperatively and in concert with existing local emergency response units. The plan is to be a comprehensive set of policies and directions that every potentially affected state agency and business is required to

follow if there is a railroad accident to minimize the potential damage to the public health and safety, property, and the environment that might result from accidents involving railroad activities in the state.

This bill would impose a fee in an unspecified amount upon every owner of hazardous material at the time that hazardous material is transported on rail by a tank car in this state. The bill would require a railroad to collect the fee from the owner of the hazardous material and to pay the fee to the State Board of Equalization. The bill would also require every person who operates a railroad that transports hazardous materials by tank car to register with the board and to remit the fees to the board pursuant to the Fee Collection Procedures Law. The bill would create the Railroad Tank Car Hazardous Materials Safety Fund in the State Treasury and would require that all revenues, interest, penalties, and other amounts collected pursuant to the bill's requirements be deposited into the fund, less refunds and reimbursement to the board for expenses incurred in the administration and collection of the railroad tank car hazardous material fee. The bill would require that all moneys in the fund, upon appropriation by the Legislature, be used by the Department of Toxic Substances Control to pay for planning, developing, and maintaining a capability for emergency response to railroad accidents involving tank cars carrying hazardous materials, including the risks of explosions and fires, and planning, developing, and maintaining a capability for emergency response to releases of hazardous materials from tank cars, including reducing the harmful effects of exposure of those hazardous materials to humans and the environment.

The bill, upon appropriation by the Legislature, would require moneys from the fund be available to the board to pay for the board's administrative costs associated with implementation of the railroad tank car hazardous material fee, which would be advanced from the General Fund, upon appropriation by the Legislature, subject to repayment once the fees are collected.

The Fee Collection Procedures Law makes a violation of any provision of the law, or of certain requirements imposed by the board pursuant to the law, a crime.

By expanding the application of the Fee Collection Procedures Law, the violation of which is a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.

Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law classifies controlled substances into 5 schedules, with the most restrictive limitations placed on controlled substances classified in Schedule I, and the least restrictive limitations placed on controlled substances classified in Schedule V. A controlled substance in any of the schedules may be possessed or dispensed only upon a lawful prescription, as specified. Existing law does not classify ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine within any of these 5 schedules, but provides that it is a crime, punishable as specified, for a person in this state who engages in specified transactions involving those drugs to fail to submit a report to the Department of Justice of all of those transactions, or to fail to submit an application to, and obtain a permit for the conduct of that business from, the Department of Justice, as specified. Existing law prohibits the sale of more than 3 packages or 9 grams of a nonprescription product containing ephedrine or the other drugs, as specified.~~

~~This bill would instead provide that it is a misdemeanor, punishable as specified, for a retail distributor, except pursuant to a valid prescription from a licensed practitioner with prescriptive authority, to sell or distribute to a person specified amounts of nonprescription products containing ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine within specified time limits, to sell or distribute any of those substances to a person whose information has generated an alert, or, except under specified conditions, to sell or distribute to a purchaser a nonprescription product containing any amount of those substances. The bill would contain provisions requiring the secure storage and monitoring of products containing any amount of ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine, as specified. By changing the definition of a crime, this bill would impose a state-mandated local program.~~

~~The bill would require the Department of Justice to enter into a memorandum of understanding (MOU) with the National Association of Drug Diversion Investigators (NADDI) and the vendor of the system governing access and oversight of the California transaction records regarding the transaction records, as specified, including requiring that the system be capable of interacting with purchase data from other states. The bill would require the competitive bid to be completed within~~

~~6 months of the effective date of the bill and would require the MOU to be completed within 45 days of selecting the vendor. The bill would also require, following the execution of the memorandum of understanding, retail distributors to transmit, on and after August 1, 2015, sale information to the system for purposes of determining whether the sale would violate these provisions. The bill would prohibit use of the information in the system for any purpose other than to meet the requirements of, or comply with, this act or a certain federal act, as specified. The bill would require that the system be available to the department and state law enforcement at no charge and would prohibit the Department of Justice or any other state agency from bearing any cost for the development, installation, or maintenance of the system. These provisions would remain in effect only until January 1, 2020. The bill would also specify legislative findings and intent.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

~~Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.~~

The people of the State of California do enact as follows:

1 *SECTION 1. Article 11 (commencing with Section 7730) is*
2 *added to Chapter 1 of Division 4 of the Public Utilities Code, to*
3 *read:*

4
5 *Article 11. Railroad Tank Car Hazardous Materials Safety*
6 *Fund*
7

8 *7730. For purposes of this article, the following terms have*
9 *the following meanings:*

- 10 (i) *“Board” means the State Board of Equalization.*
11 (ii) *“Department” means the Department of Toxic Substances*
12 *Control.*
13 (iii) *“Fund” means the Railroad Tank Car Hazardous Materials*
14 *Safety Fund established pursuant to Section 7744.*
15 (iv) *“Hazardous material” means a material that the United*
16 *States Department of Transportation has designated as a hazardous*

1 *material for purposes of transportation in Part 172 of Title 49 of*
2 *the Code of Federal Regulations.*

3 (e) *“Owner” means the person who has the ultimate control*
4 *over, and the right to use or sell, the hazardous material being*
5 *shipped. There is a rebuttable presumption that the shipper,*
6 *consignor, or consignee of the hazardous material is the owner of*
7 *the hazardous material. This presumption may be overcome by*
8 *showing that ownership of the hazardous material rests with*
9 *someone other than the shipper, consignor, or consignee. Evidence*
10 *to rebut the presumption may include, but is not limited to,*
11 *documentation, including a bill of lading, shipping document, bill*
12 *of sale, or other medium, that shows the ownership of the*
13 *hazardous material rests in a person other than the shipper,*
14 *consignor, or consignee.*

15 (f) *“Person” means an individual, trust, firm, joint stock*
16 *company, business concern, corporation, including, but not limited*
17 *to, a government corporation, partnership, limited liability*
18 *company, and association. “Person” also includes any city, county,*
19 *city and county, district, commission, the state or any department,*
20 *agency or political subdivision thereof, and the United States and*
21 *agencies and instrumentalities, to the extent permitted by law.*

22 (g) *“Railroad” has the same meaning as defined in Section 229.*

23 (h) *“Tank car” means a railroad car or rolling stock designed*
24 *to transport liquid and gaseous commodities, and includes those*
25 *railroad cars subject to the requirements of Part 179 (commencing*
26 *with Section 179.1) of Title 49 of the Code of Federal Regulations,*
27 *or a successor set of regulations adopted by the United States*
28 *Department of Transportation.*

29 7732. (a) *A railroad tank car hazardous material fee of _____*
30 *dollars (\$_____) is imposed on every owner of hazardous material*
31 *at the time that hazardous material is transported on rail by a tank*
32 *car in this state. The railroad tank car hazardous material fee*
33 *shall be based on each loaded tank car as described in subdivision*
34 *(b).*

35 (b) (1) *The railroad tank car hazardous material fee shall be*
36 *imposed on a person owning hazardous material at the time that*
37 *hazardous material is transported by loaded tank car. The fee is*
38 *based on each loaded tank car.*

39 (A) *If the loaded tank car enters the state from outside this state,*
40 *the fee is imposed on the owner of the hazardous material at the*

1 *time the loaded tank car enters this state. The railroad shall collect*
2 *the fee from the owner of the hazardous material and shall pay*
3 *the fee to the board.*

4 *(B) If the tank car is loaded within this state, the fee is imposed*
5 *upon the loading of hazardous material into the tank car for*
6 *transport in or through this state. The railroad shall collect the*
7 *fee from the owner of the hazardous material at the time the tank*
8 *car is loaded and shall pay the fee to the board.*

9 *(2) The fees shall be paid to the board by the railroad at the*
10 *time the return is required to be filed, as specified in Section 7738,*
11 *based on the number of loaded hazardous material tank cars*
12 *transported within the state.*

13 *(3) Any fees collected from an owner of hazardous materials*
14 *pursuant to this section that have not been remitted to the board*
15 *shall be deemed a debt owed to the state by the person required*
16 *to collect and remit fees.*

17 *(4) The owner of the hazardous material is liable for the fee*
18 *until it has been paid to the board, except that payment to a*
19 *railroad registered under this article is sufficient to relieve the*
20 *owner from further liability for the fee.*

21 *7734. Every person who operates a railroad that transports*
22 *hazardous materials by tank car shall register with the board*
23 *pursuant to Section 55021 of the Revenue and Taxation Code.*

24 *7736. The railroad tank car hazardous material fee imposed*
25 *pursuant to Section 7732 shall be administered and collected by*
26 *the board in accordance with the Fee Collection Procedures Law*
27 *(Part 30 (commencing with Section 55001) of Division 2 of the*
28 *Revenue and Taxation Code). For purposes of this section, the*
29 *references in the Fee Collection Procedures Law to “fee” shall*
30 *include the railroad tank car hazardous material fee imposed by*
31 *this article, and references to “feepayer” shall include a person*
32 *required to pay the fee imposed by this article.*

33 *7738. The return required to be filed pursuant to Section 55040*
34 *of the Revenue and Taxation Code shall be prepared and filed by*
35 *the person required to register with the board, using electronic*
36 *media, in the form prescribed by the board containing that*
37 *information the board deems necessary or appropriate for the*
38 *proper administration of this article and the Fee Collection*
39 *Procedures Law. The return shall be filed on or before the last*
40 *day of the calendar month following the calendar quarter to which*

1 *it relates, together with a remittance payable to the board for the*
2 *fee amount due for that period. Returns shall be authenticated in*
3 *a form or pursuant to methods as may be prescribed by the board.*

4 7740. *Notwithstanding the petition for redetermination and*
5 *claim for refund provisions of the Fee Collection Procedures Law*
6 *(Article 3 (commencing with Section 55081) of Chapter 3 of, and*
7 *Article 1 (commencing with Section 55221) of Chapter 5 of, Part*
8 *30 of Division 2 of the Revenue and Taxation Code), the board*
9 *shall not:*

10 (a) *Accept or consider a petition for redetermination of fees*
11 *determined under this article if the petition is founded upon the*
12 *grounds that the tank car content is or is not a hazardous material.*
13 *The board shall forward to the department any appeal of a*
14 *determination that is based on the grounds that the tank car content*
15 *is or is not a hazardous material.*

16 (b) *Accept or consider a claim for refund of fees paid pursuant*
17 *to this chapter if the claim is founded upon the grounds that the*
18 *tank car content is or is not a hazardous material. The board shall*
19 *forward to the department any claim for refund that is based on*
20 *the grounds that the tank car content is or is not a hazardous*
21 *material.*

22 7742. (a) *The board may prescribe, adopt, and enforce*
23 *regulations relating to the administration and enforcement of this*
24 *article.*

25 (b) *The board may prescribe, adopt, and enforce any emergency*
26 *regulations, as necessary, to implement this article. Any emergency*
27 *regulation prescribed, adopted, or enforced pursuant to this article*
28 *shall be adopted pursuant to Chapter 3.5 (commencing with Section*
29 *11340) of Part 1 of Division 3 of Title 2 of the Government Code,*
30 *and, for purposes of that article, including Section 11349.6 of the*
31 *Government Code, the adoption of the regulation is an emergency*
32 *and shall be considered by the Office of Administrative Law as*
33 *necessary for the immediate preservation of the public peace,*
34 *health and safety, and general welfare.*

35 7744. (a) *The Railroad Tank Car Hazardous Materials Safety*
36 *Fund is hereby created in the State Treasury.*

37 (b) *All revenues, interest, penalties, and other amounts collected*
38 *pursuant to this article shall be deposited into the fund, less refunds*
39 *and reimbursement to the board for expenses incurred in the*

1 administration and collection of the railroad tank car hazardous
2 material fee.

3 (c) The fund shall be used to reimburse the General Fund for
4 any moneys advanced by the General Fund to the fund to pay for
5 the board's administrative costs associated with implementation
6 of the railroad tank car hazardous material fee pursuant to this
7 article.

8 (d) All moneys remaining in the fund after reimbursement of
9 the General Fund pursuant to subdivision (b) shall, upon
10 appropriation by the Legislature, be used by the department to
11 pay for the following purposes related to the transportation of
12 hazardous materials:

13 (1) Planning, developing, and maintaining a capability for
14 emergency response to railroad accidents involving tank cars
15 carrying hazardous materials, including the risks of explosions
16 and fires.

17 (2) Planning, developing, and maintaining a capability for
18 emergency response to releases of hazardous materials from tank
19 cars, including reducing the harmful effects of exposure of those
20 materials to humans and the environment.

21 SEC. 2. (a) Upon appropriation by the Legislature, moneys
22 from the Railroad Tank Car Hazardous Materials Safety Fund
23 shall be available to the State Board of Equalization to pay for
24 administrative costs associated with implementation of the railroad
25 tank car hazardous material fee pursuant to Article 11
26 (commencing with Section 7730) of Chapter 1 of Division 4 of the
27 Public Utilities Code.

28 (b) Upon appropriation by the Legislature, the Director of
29 Finance shall transfer moneys to the Railroad Tank Car Hazardous
30 Materials Safety Fund from the General Fund for purposes of
31 paying the implementation costs of the State Board of Equalization
32 associated with implementation of the railroad tank car hazardous
33 material fee.

34 SEC. 3. No reimbursement is required by this act pursuant to
35 Section 6 of Article XIII B of the California Constitution because
36 the only costs that may be incurred by a local agency or school
37 district will be incurred because this act creates a new crime or
38 infraction, eliminates a crime or infraction, or changes the penalty
39 for a crime or infraction, within the meaning of Section 17556 of
40 the Government Code, or changes the definition of a crime within

1 *the meaning of Section 6 of Article XIII B of the California*
2 *Constitution.*

3 **SECTION 1.** ~~Section 11100 of the Health and Safety Code is~~
4 ~~amended to read:~~

5 ~~11100. (a) Any manufacturer, wholesaler, retailer, or other~~
6 ~~person or entity in this state that sells, transfers, or otherwise~~
7 ~~furnishes any of the following substances to any person or entity~~
8 ~~in this state or any other state shall submit a report to the~~
9 ~~Department of Justice of all of those transactions:~~

10 ~~(1) Phenyl-2-propanone.~~

11 ~~(2) Methylamine.~~

12 ~~(3) Ethylamine.~~

13 ~~(4) D-lysergic acid.~~

14 ~~(5) Ergotamine tartrate.~~

15 ~~(6) Diethyl malonate.~~

16 ~~(7) Malonic acid.~~

17 ~~(8) Ethyl malonate.~~

18 ~~(9) Barbituric acid.~~

19 ~~(10) Piperidine.~~

20 ~~(11) N-acetylanthranilic acid.~~

21 ~~(12) Pyrrolidine.~~

22 ~~(13) Phenylacetic acid.~~

23 ~~(14) Anthranilic acid.~~

24 ~~(15) Morpholine.~~

25 ~~(16) Ephedrine.~~

26 ~~(17) Pseudoephedrine.~~

27 ~~(18) Norpseudoephedrine.~~

28 ~~(19) Phenylpropanolamine.~~

29 ~~(20) Propionic anhydride.~~

30 ~~(21) Isosafrole.~~

31 ~~(22) Safrole.~~

32 ~~(23) Piperonal.~~

33 ~~(24) Thionyl chloride.~~

34 ~~(25) Benzyl cyanide.~~

35 ~~(26) Ergonovine maleate.~~

36 ~~(27) N-methylephedrine.~~

37 ~~(28) N-ethylephedrine.~~

38 ~~(29) N-methylpseudoephedrine.~~

39 ~~(30) N-ethylpseudoephedrine.~~

40 ~~(31) Chloroephedrine.~~

1 ~~(32) Chloropseudoephedrine.~~

2 ~~(33) Hydriodic acid.~~

3 ~~(34) Gamma-butyrolactone, — including — butyrolactone;~~
4 ~~butyrolactone gamma; 4-butyrolactone; 2(3H)-furanone dihydro;~~
5 ~~dihydro-2(3H)-furanone; tetrahydro-2-furanone; 1,2-butanolide;~~
6 ~~1,4-butanolide; 4-butanolide; gamma-hydroxybutyric acid lactone;~~
7 ~~3-hydroxybutyric acid lactone and 4-hydroxybutanoic acid lactone~~
8 ~~with Chemical Abstracts Service number 96-48-0.~~

9 ~~(35) 1,4-butanediol, including butanediol; butane-1,4-diol;~~
10 ~~1,4-butylene glycol; butylene glycol; 1,4-dihydroxybutane;~~
11 ~~1,4-tetramethylene glycol; tetramethylene glycol; tetramethylene~~
12 ~~1,4-diol with Chemical Abstracts Service number 110-63-4.~~

13 ~~(36) Red — phosphorus, — including — white — phosphorus;~~
14 ~~hypophosphorous acid and its salts, ammonium hypophosphite;~~
15 ~~calcium hypophosphite, iron hypophosphite, potassium~~
16 ~~hypophosphite, manganese hypophosphite, magnesium~~
17 ~~hypophosphite, sodium hypophosphite, and phosphorous acid and~~
18 ~~its salts.~~

19 ~~(37) Iodine or tincture of iodine.~~

20 ~~(38) Any of the substances listed by the Department of Justice~~
21 ~~in regulations promulgated pursuant to subdivision (b).~~

22 ~~(b) The Department of Justice may adopt rules and regulations~~
23 ~~in accordance with Chapter 3.5 (commencing with Section 11340)~~
24 ~~of Part 1 of Division 3 of Title 2 of the Government Code that add~~
25 ~~substances to subdivision (a) if the substance is a precursor to a~~
26 ~~controlled substance and delete substances from subdivision (a).~~
27 ~~However, no regulation adding or deleting a substance shall have~~
28 ~~any effect beyond March 1 of the year following the calendar year~~
29 ~~during which the regulation was adopted.~~

30 ~~(c) (1) (A) Any manufacturer, wholesaler, retailer, or other~~
31 ~~person or entity in this state, prior to selling, transferring, or~~
32 ~~otherwise furnishing any substance specified in subdivision (a) to~~
33 ~~any person or business entity in this state or any other state, shall~~
34 ~~require (i) a letter of authorization from that person or business~~
35 ~~entity that includes the currently valid business license number or~~
36 ~~federal Drug Enforcement Administration (DEA) registration~~
37 ~~number, the address of the business, and a full description of how~~
38 ~~the substance is to be used, and (ii) proper identification from the~~
39 ~~purchaser. The manufacturer, wholesaler, retailer, or other person~~
40 ~~or entity in this state shall retain this information in a readily~~

1 available manner for three years. The requirement for a full
2 description of how the substance is to be used does not require the
3 person or business entity to reveal their chemical processes that
4 are typically considered trade secrets and proprietary information.

5 (B) For the purposes of this paragraph, “proper identification”
6 for in-state or out-of-state purchasers includes two or more of the
7 following: federal tax identification number; seller’s permit
8 identification number; city or county business license number;
9 license issued by the State Department of Public Health;
10 registration number issued by the federal Drug Enforcement
11 Administration; precursor business permit number issued by the
12 Department of Justice; driver’s license; or other identification
13 issued by a state.

14 (2) (A) A manufacturer, wholesaler, retailer, or other person
15 or entity in this state that exports a substance specified in
16 subdivision (a) to a person or business entity located in a foreign
17 country shall, on or before the date of exportation, submit to the
18 Department of Justice a notification of that transaction. The
19 notification shall include the name and quantity of the substance
20 to be exported and the name, address, and, if assigned by the
21 foreign country or subdivision thereof, business identification
22 number of the person or business entity located in a foreign country
23 importing the substance.

24 (B) The department may authorize the submission of the
25 notification on a monthly basis with respect to repeated, regular
26 transactions between an exporter and an importer involving a
27 substance specified in subdivision (a), if the department determines
28 that a pattern of regular supply of the substance exists between the
29 exporter and importer and that the importer has established a record
30 of utilization of the substance for lawful purposes.

31 (d) (1) A manufacturer, wholesaler, retailer, or other person or
32 entity in this state that sells, transfers, or otherwise furnishes a
33 substance specified in subdivision (a) to a person or business entity
34 in this state or any other state shall, not less than 21 days prior to
35 delivery of the substance, submit a report of the transaction, which
36 includes the identification information specified in subdivision
37 (c), to the Department of Justice. The Department of Justice may
38 authorize the submission of the reports on a monthly basis with
39 respect to repeated, regular transactions between the furnisher and
40 the recipient involving the substance or substances if the

1 Department of Justice determines that a pattern of regular supply
2 of the substance or substances exists between the manufacturer,
3 wholesaler, retailer, or other person or entity that sells, transfers,
4 or otherwise furnishes the substance or substances and the recipient
5 of the substance or substances, and the recipient has established a
6 record of utilization of the substance or substances for lawful
7 purposes.

8 (2) The person selling, transferring, or otherwise furnishing a
9 substance specified in subdivision (a) shall affix his or her signature
10 or otherwise identify himself or herself as a witness to the
11 identification of the purchaser or purchasing individual, and shall,
12 if a common carrier is used, maintain a manifest of the delivery
13 to the purchaser for three years.

14 (e) This section shall not apply to any of the following:

15 (1) A pharmacist or other authorized person who sells or
16 furnishes a substance upon the prescription of a physician, dentist,
17 podiatrist, or veterinarian.

18 (2) A physician, dentist, podiatrist, or veterinarian who
19 administers or furnishes a substance to his or her patients.

20 (3) A manufacturer or wholesaler licensed by the California
21 State Board of Pharmacy that sells, transfers, or otherwise furnishes
22 a substance to a licensed pharmacy, physician, dentist, podiatrist,
23 or veterinarian, or a retail distributor, provided that the
24 manufacturer or wholesaler submits records of any suspicious sales
25 or transfers as determined by the Department of Justice.

26 (4) An analytical research facility that is registered with the
27 federal Drug Enforcement Administration of the United States
28 Department of Justice.

29 (5) A state-licensed health care facility that administers or
30 furnishes a substance to its patients.

31 (6) (A) The sale, transfer, furnishing, or receipt of a product
32 that contains ephedrine, pseudoephedrine, norpseudoephedrine,
33 or phenylpropanolamine and that is lawfully sold, transferred, or
34 furnished over the counter without a prescription pursuant to the
35 Federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et seq.)
36 or regulations adopted thereunder. However, this section shall
37 apply to preparations in solid or liquid dosage form, except
38 pediatric liquid forms, as defined, containing ephedrine,
39 pseudoephedrine, norpseudoephedrine, or phenylpropanolamine
40 where the individual transaction involves more than three packages

1 or nine grams of ephedrine, pseudoephedrine, norpseudoephedrine,
2 or phenylpropanolamine.

3 (B) Any ephedrine, pseudoephedrine, norpseudoephedrine, or
4 phenylpropanolamine product subsequently removed from
5 exemption pursuant to Section 814 of Title 21 of the United States
6 Code shall similarly no longer be exempt from any state reporting
7 or permitting requirement, unless otherwise reinstated pursuant to
8 Section 814(d) of Title 21 of the United States Code as an exempt
9 product.

10 (7) The sale, transfer, furnishing, or receipt of a betadine or
11 povidone solution with an iodine content not exceeding 1 percent
12 in containers of eight ounces or less, or a tincture of iodine not
13 exceeding 2 percent in containers of one ounce or less, that is sold
14 over the counter. —

15 (8) The transfer of a substance specified in subdivision (a) for
16 purposes of lawful disposal as waste.

17 (f) (1) A person specified in subdivision (a) or (d) who does
18 not submit a report as required by that subdivision or who
19 knowingly submits a report with false or fictitious information
20 shall be punished by imprisonment in a county jail not exceeding
21 six months, by a fine not exceeding five thousand dollars (\$5,000),
22 or by both the fine and imprisonment.

23 (2) Any person specified in subdivision (a) or (d) who has
24 previously been convicted of a violation of paragraph (1) shall,
25 upon a subsequent conviction thereof, be punished by
26 imprisonment pursuant to subdivision (h) of Section 1170 of the
27 Penal Code, or by imprisonment in a county jail not exceeding one
28 year, by a fine not exceeding one hundred thousand dollars
29 (\$100,000), or by both the fine and imprisonment.

30 (g) (1) Except as otherwise provided in subparagraph (A) of
31 paragraph (6) of subdivision (c), it is unlawful for a manufacturer,
32 wholesaler, retailer, or other person to sell, transfer, or otherwise
33 furnish a substance specified in subdivision (a) to a person under
34 18 years of age.

35 (2) Except as otherwise provided in subparagraph (A) of
36 paragraph (6) of subdivision (c), it is unlawful for any person under
37 18 years of age to possess a substance specified in subdivision (a).

38 (3) (A) A first violation of this subdivision is a misdemeanor.

39 (B) A person who has previously been convicted of a violation
40 of this subdivision shall, upon a subsequent conviction thereof, be

1 punished by imprisonment in a county jail not exceeding one year,
2 by a fine not exceeding ten thousand dollars (\$10,000), or by both
3 the fine and imprisonment.

4 (h) ~~This section shall remain in effect only until January 1, 2019,~~
5 ~~and as of that date is repealed, unless a later enacted statute, that~~
6 ~~is enacted before January 1, 2019, deletes or extends that date.~~

7 SEC. 2. ~~Section 11100 is added to the Health and Safety Code,~~
8 ~~to read:~~

9 11100. ~~(a) Any manufacturer, wholesaler, retailer, or other~~
10 ~~person or entity in this state that sells, transfers, or otherwise~~
11 ~~furnishes any of the following substances to any person or entity~~
12 ~~in this state or any other state shall submit a report to the~~
13 ~~Department of Justice of all of those transactions:~~

14 ~~(1) Phenyl-2-propanone.~~

15 ~~(2) Methylamine.~~

16 ~~(3) Ethylamine.~~

17 ~~(4) D-lysergie acid.~~

18 ~~(5) Ergotamine tartrate.~~

19 ~~(6) Diethyl malonate.~~

20 ~~(7) Malonic acid.~~

21 ~~(8) Ethyl malonate.~~

22 ~~(9) Barbituric acid.~~

23 ~~(10) Piperidine.~~

24 ~~(11) N-acetylanthranilic acid.~~

25 ~~(12) Pyrrolidine.~~

26 ~~(13) Phenylacetic acid.~~

27 ~~(14) Anthranilic acid.~~

28 ~~(15) Morpholine.~~

29 ~~(16) Ephedrine.~~

30 ~~(17) Pseudoephedrine.~~

31 ~~(18) Norpseudoephedrine.~~

32 ~~(19) Phenylpropanolamine.~~

33 ~~(20) Propionic anhydride.~~

34 ~~(21) Isosafrole.~~

35 ~~(22) Safrole.~~

36 ~~(23) Piperonal.~~

37 ~~(24) Thionyl chloride.~~

38 ~~(25) Benzyl cyanide.~~

39 ~~(26) Ergonovine maleate.~~

40 ~~(27) N-methylephedrine.~~

~~(28) N-ethylephedrine.~~

~~(29) N-methylpseudoephedrine.~~

~~(30) N-ethylpseudoephedrine.~~

~~(31) Chloroephedrine.~~

~~(32) Chloropseudoephedrine.~~

~~(33) Hydriodic acid.~~

~~(34) Gamma-butyrolactone, — including — butyrolactone;
butyrolactone gamma; 4-butyrolactone; 2(3H)-furanone dihydro;
dihydro-2(3H)-furanone; tetrahydro-2-furanone; 1,2-butanolide;
1,4-butanolide; 4-butanolide; gamma-hydroxybutyric acid lactone;
3-hydroxybutyric acid lactone and 4-hydroxybutanoic acid lactone
with Chemical Abstracts Service number 96-48-0.~~

~~(35) 1,4-butanediol, — including — butanediol; butane-1,4-diol;
1,4-butylene glycol; butylene glycol; 1,4-dihydroxybutane;
1,4-tetramethylene glycol; tetramethylene glycol; tetramethylene
1,4-diol with Chemical Abstracts Service number 110-63-4.~~

~~(36) Red phosphorus, — including — white phosphorus;
hypophosphorous acid and its salts, ammonium hypophosphite,
calcium hypophosphite, iron hypophosphite, potassium
hypophosphite, manganese hypophosphite, magnesium
hypophosphite, sodium hypophosphite, and phosphorous acid and
its salts.~~

~~(37) Iodine or tincture of iodine.~~

~~(38) Any of the substances listed by the Department of Justice
in regulations promulgated pursuant to subdivision (b).~~

~~(b) The Department of Justice may adopt rules and regulations
in accordance with Chapter 3.5 (commencing with Section 11340)
of Part 1 of Division 3 of Title 2 of the Government Code that add
substances to subdivision (a) if the substance is a precursor to a
controlled substance and delete substances from subdivision (a).
However, no regulation adding or deleting a substance shall have
any effect beyond March 1 of the year following the calendar year
during which the regulation was adopted.~~

~~(c) (1) (A) A manufacturer, wholesaler, retailer, or other person
or entity in this state, prior to selling, transferring, or otherwise
furnishing a substance specified in subdivision (a) to a person or
business entity in this state or any other state, shall require (i) a
letter of authorization from that person or business entity that
includes the currently valid business license number or federal
Drug Enforcement Administration (DEA) registration number, the~~

1 address of the business, and a full description of how the substance
2 is to be used, and (ii) proper identification from the purchaser. The
3 manufacturer, wholesaler, retailer, or other person or entity in this
4 state shall retain this information in a readily available manner for
5 three years. The requirement for a full description of how the
6 substance is to be used does not require the person or business
7 entity to reveal chemical processes that are typically considered
8 trade secrets and proprietary information.

9 (B) For the purposes of this paragraph, “proper identification”
10 for in-state or out-of-state purchasers includes two or more of the
11 following: federal tax identification number; seller’s permit
12 identification number; city or county business license number;
13 license issued by the State Department of Public Health;
14 registration number issued by the federal Drug Enforcement
15 Administration; precursor business permit number issued by the
16 Bureau of Narcotic Enforcement of the Department of Justice;
17 driver’s license; or other identification issued by a state.

18 (2) (A) A manufacturer, wholesaler, retailer, or other person
19 or entity in this state that exports a substance specified in
20 subdivision (a) to a person or business entity located in a foreign
21 country shall, on or before the date of exportation, submit to the
22 Department of Justice a notification of that transaction. The
23 notification shall include the name and quantity of the substance
24 to be exported and the name, address, and, if assigned by the
25 foreign country or subdivision thereof, business identification
26 number of the person or business entity located in a foreign country
27 importing the substance.

28 (B) The department may authorize the submission of the
29 notification on a monthly basis with respect to repeated, regular
30 transactions between an exporter and an importer involving a
31 substance specified in subdivision (a), if the department determines
32 that a pattern of regular supply of the substance exists between the
33 exporter and importer and that the importer has established a record
34 of utilization of the substance for lawful purposes.

35 (d) (1) A manufacturer, wholesaler, retailer, or other person or
36 entity in this state that sells, transfers, or otherwise furnishes a
37 substance specified in subdivision (a) to a person or business entity
38 in this state or any other state shall, not less than 21 days prior to
39 delivery of the substance, submit a report of the transaction, which
40 includes the identification information specified in subdivision

1 (c), to the Department of Justice. The Department of Justice may
2 authorize the submission of the reports on a monthly basis with
3 respect to repeated, regular transactions between the furnisher and
4 the recipient involving the substance or substances if the
5 Department of Justice determines that a pattern of regular supply
6 of the substance or substances exists between the manufacturer,
7 wholesaler, retailer, or other person or entity that sells, transfers,
8 or otherwise furnishes the substance or substances and the recipient
9 of the substance or substances, and the recipient has established a
10 record of utilization of the substance or substances for lawful
11 purposes.

12 (2) The person selling, transferring, or otherwise furnishing a
13 substance specified in subdivision (a) shall affix his or her signature
14 or otherwise identify himself or herself as a witness to the
15 identification of the purchaser or purchasing individual, and shall,
16 if a common carrier is used, maintain a manifest of the delivery
17 to the purchaser for three years.

18 (e) This section shall not apply to any of the following:

19 (1) A pharmacist or other authorized person who sells or
20 furnishes a substance upon the prescription of a physician, dentist,
21 podiatrist, or veterinarian.

22 (2) A physician, dentist, podiatrist, or veterinarian who
23 administers or furnishes a substance to his or her patients.

24 (3) A manufacturer or wholesaler licensed by the California
25 State Board of Pharmacy that sells, transfers, or otherwise furnishes
26 a substance to a licensed pharmacy, physician, dentist, podiatrist,
27 or veterinarian, or a retail distributor, provided that the
28 manufacturer or wholesaler submits records of any suspicious sales
29 or transfers as determined by the Department of Justice.

30 (4) An analytical research facility that is registered with the
31 federal Drug Enforcement Administration of the United States
32 Department of Justice.

33 (5) A state-licensed health care facility that administers or
34 furnishes a substance to its patients.

35 (6) (A) The sale, transfer, furnishing, or receipt of a product
36 that contains ephedrine, pseudoephedrine, norpseudoephedrine,
37 or phenylpropanolamine and that is lawfully sold, transferred, or
38 furnished over the counter without a prescription pursuant to the
39 Federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et seq.)
40 or regulations adopted thereunder. However, this section shall

1 apply to preparations in solid or liquid dosage form, except
2 pediatric liquid forms, as defined, containing ephedrine,
3 pseudoephedrine, norpseudoephedrine, or phenylpropanolamine
4 where the individual transaction involves more than three packages
5 or nine grams of ephedrine, pseudoephedrine, norpseudoephedrine,
6 or phenylpropanolamine.

7 (B) An ephedrine, pseudoephedrine, norpseudoephedrine, or
8 phenylpropanolamine product subsequently removed from
9 exemption pursuant to Section 814 of Title 21 of the United States
10 Code shall similarly no longer be exempt from state reporting or
11 permitting requirements, unless otherwise reinstated pursuant to
12 Section 814(d) of Title 21 of the United States Code as an exempt
13 product.

14 (7) The sale, transfer, furnishing, or receipt of a betadine or
15 povidone solution with an iodine content not exceeding 1 percent
16 in containers of eight ounces or less, or a tincture of iodine not
17 exceeding 2 percent in containers of one ounce or less, that is sold
18 over the counter.

19 (8) Transfer of a substance specified in subdivision (a) for
20 purposes of lawful disposal as waste.

21 (f) (1) A person specified in subdivision (a) or (d) who does
22 not submit a report as required by that subdivision or who
23 knowingly submits a report with false or fictitious information
24 shall be punished by imprisonment in a county jail not exceeding
25 six months, by a fine not exceeding five thousand dollars (\$5,000),
26 or by both the fine and imprisonment.

27 (2) A person specified in subdivision (a) or (d) who has
28 previously been convicted of a violation of paragraph (1) shall,
29 upon a subsequent conviction thereof, be punished by
30 imprisonment pursuant to subdivision (h) of Section 1170 of the
31 Penal Code, or by imprisonment in a county jail not exceeding one
32 year, by a fine not exceeding one hundred thousand dollars
33 (\$100,000), or by both the fine and imprisonment.

34 (g) (1) Except as otherwise provided in subparagraph (A) of
35 paragraph (6) of subdivision (e), it is unlawful for a manufacturer,
36 wholesaler, retailer, or other person to sell, transfer, or otherwise
37 furnish a substance specified in subdivision (a) to a person under
38 18 years of age.

~~(2) Except as otherwise provided in subparagraph (A) of paragraph (6) of subdivision (c), it is unlawful for a person under 18 years of age to possess a substance specified in subdivision (a).~~

~~(3) Notwithstanding any other law, it is unlawful for a retail distributor to (A) sell in a single transaction more than three packages of a product that he or she knows to contain ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine; or (B) knowingly sell more than nine grams of ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine; other than pediatric liquids as defined. Except as otherwise provided in this section, the three package per transaction limitation or nine gram per transaction limitation imposed by this paragraph shall apply to any product that is lawfully sold, transferred, or furnished over the counter without a prescription pursuant to the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et seq.), or regulations adopted thereunder, unless exempted from the requirements of the federal Controlled Substances Act (21 U.S.C. Sec. 801 et seq.) by the federal Drug Enforcement Administration pursuant to Section 814 of Title 21 of the United States Code.~~

~~(4) (A) A first violation of this subdivision is a misdemeanor.~~

~~(B) A person who has previously been convicted of a violation of this subdivision shall, upon a subsequent conviction thereof, be punished by imprisonment in a county jail not exceeding one year, by a fine not exceeding ten thousand dollars (\$10,000), or by both the fine and imprisonment.~~

~~(h) For the purposes of this article, the following terms have the following meanings:~~

~~(1) “Drug store” is an entity described in Code 5912 of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition.~~

~~(2) “General merchandise store” is an entity described in Codes 5311 to 5399, inclusive, and Code 5499 of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition.~~

~~(3) “Grocery store” is an entity described in Code 5411 of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition.~~

~~(4) “Pediatric liquid” means a nonencapsulated liquid whose unit measure according to product labeling is stated in milligrams,~~

1 ounces, or other similar measure. In no instance shall the dosage
2 units exceed 15 milligrams of phenylpropanolamine or
3 pseudoephedrine per five milliliters of liquid product, except for
4 liquid products primarily intended for administration to children
5 under two years of age for which the recommended dosage unit
6 does not exceed two milliliters and the total package content does
7 not exceed one fluid ounce.

8 (5) “Retail distributor” means a grocery store, general
9 merchandise store, drugstore, or other related entity, the activities
10 of which, as a distributor of ephedrine, pseudoephedrine,
11 norpseudoephedrine, or phenylpropanolamine products, are limited
12 exclusively to the sale of ephedrine, pseudoephedrine,
13 norpseudoephedrine, or phenylpropanolamine products for personal
14 use both in number of sales and volume of sales, either directly to
15 walk-in customers or in face-to-face transactions by direct sales.
16 “Retail distributor” includes an entity that makes a direct sale, but
17 does not include the parent company of that entity if the company
18 is not involved in direct sales regulated by this article.

19 (6) “Sale for personal use” means the sale, in a single
20 transaction, to an individual customer for a legitimate medical use
21 of a product containing ephedrine, pseudoephedrine,
22 norpseudoephedrine, or phenylpropanolamine in dosages at or
23 below that specified in paragraph (3) of subdivision (g). “Sale for
24 personal use” also includes the sale of those products to employers
25 to be dispensed to employees from first aid kits or medicine chests.

26 (i) It is the intent of the Legislature that this section shall
27 preempt all local ordinances or regulations governing the sale by
28 a retail distributor of over-the-counter products containing
29 ephedrine, pseudoephedrine, norpseudoephedrine, or
30 phenylpropanolamine.

31 (j) This section shall become operative on January 1, 2019.

32 SEC. 3. Section 11100.02 is added to the Health and Safety
33 Code, to read:

34 11100.02. (a) Notwithstanding any other law, it is unlawful
35 for a retail distributor to knowingly do any of the following, except
36 pursuant to a valid prescription from a licensed practitioner with
37 prescriptive authority:

38 (1) To sell or distribute to the same purchaser within a 30-day
39 period more than 9 grams, or within a day more than 3.6 grams,
40 of ephedrine base, pseudoephedrine base, norpseudoephedrine

1 ~~base, or phenylpropanolamine base contained in a product that is~~
2 ~~lawfully sold, transferred, or furnished over the counter without a~~
3 ~~prescription pursuant to the Federal Food, Drug, and Cosmetic~~
4 ~~Act (21 U.S.C. Sec. 301 et seq.), or regulations adopted thereunder,~~
5 ~~unless exempted from the requirements of the federal Controlled~~
6 ~~Substances Act (21 U.S.C. Sec. 801 et seq.) by the federal Drug~~
7 ~~Enforcement Administration pursuant to Section 814 of Title 21~~
8 ~~of the United States Code.~~

9 ~~(2) To sell or distribute ephedrine, pseudoephedrine,~~
10 ~~norpseudoephedrine, or phenylpropanolamine to a person whose~~
11 ~~information has generated an alert as described in paragraph (3)~~
12 ~~of subdivision (d) regarding that sale.~~

13 ~~(3) To sell or distribute to a purchaser a nonprescription product~~
14 ~~containing any amount of ephedrine, pseudoephedrine,~~
15 ~~norpseudoephedrine, or phenylpropanolamine, except under the~~
16 ~~following conditions:~~

17 ~~(A) The purchaser shall produce valid government-issued photo~~
18 ~~identification.~~

19 ~~(B) The purchaser shall sign a written or electronic log showing~~
20 ~~all of the following:~~

21 ~~(i) The date and time of the transaction.~~
22 ~~(ii) The identification number presented.~~
23 ~~(iii) The agency issuing the identification and the type of~~
24 ~~identification issued.~~

25 ~~(iv) The name, date of birth, and address of the purchaser.~~

26 ~~(v) The amount of ephedrine base, pseudoephedrine base,~~
27 ~~norpseudoephedrine base, or phenylpropanolamine base contained~~
28 ~~in the material, compound, mixture, or preparation sold.~~

29 ~~(b) The retail distributor shall store any product containing any~~
30 ~~amount of ephedrine, pseudoephedrine, norpseudoephedrine, or~~
31 ~~phenylpropanolamine either behind the counter or in a locked~~
32 ~~cabinet so that the customer does not have access to the product.~~

33 ~~(c) (1) To facilitate the monitoring of the sales of~~
34 ~~nonprescription products containing ephedrine, pseudoephedrine,~~
35 ~~norpseudoephedrine, or phenylpropanolamine, the retail distributor~~
36 ~~shall record all of the following information at the point of sale~~
37 ~~regarding the proposed transaction for the purpose of complying~~
38 ~~with this section or the federal Combat Methamphetamine~~
39 ~~Epidemic Act of 2005, or any regulation adopted pursuant to this~~
40 ~~section or that act, and for no other purpose:~~

1 (A) The date and time of the transaction.

2 (B) The identification number of the purchaser, issuing agency
3 of the identification, and the type of identification used.

4 (C) The name, date of birth, and address of the purchaser
5 verified through a photo identification of the purchaser.

6 (D) The name, quantity of packages, and total gram weight of
7 ephedrine base, pseudoephedrine base, norpseudoephedrine base,
8 or phenylpropanolamine base contained in a product or products
9 purchased, received, or otherwise acquired.

10 (E) The name or initials of the person making the sale.

11 (2) (A) On and after August 1, 2015, the retail distributor shall
12 transmit the information immediately to a vendor selected by the
13 department to collect, administer, and provide access to the
14 transaction data for purposes of determining whether the proposed
15 sale would violate this section and therefore may not proceed;
16 provided that the system is available to retailers in the state without
17 a charge for accessing the system. The transaction information
18 shall not be accessed, stored, or used by the retail distributor or
19 law enforcement for any purpose other than to meet the
20 requirements set forth in this section or to comply with the
21 provisions of the federal Combat Methamphetamine Epidemic Act
22 of 2005, or any regulation adopted pursuant to this section or that
23 act. The retail distributor shall not maintain a separate copy of the
24 transaction information and shall not have direct access to
25 individual information or sales records entered into the system;
26 except as required by the federal Combat Methamphetamine
27 Epidemic Act of 2005.

28 (B) Subparagraph (A) shall become operative following the
29 department's execution of a memorandum of understanding (MOU)
30 with NADDI and the vendor of the system governing access and
31 oversight of the California transaction records pursuant to
32 paragraph (1) of subdivision (d). Prior to executing the MOU, the
33 Department of Justice shall carry out a competitive bidding process
34 for a vendor to collect, administer, and provide access to the
35 transaction data transmitted by retail distributors. The competitive
36 bid shall be completed by the department and the selected vendor
37 within six months of the effective date of the act adding this
38 section. The MOU shall be completed within 45 days of the vendor
39 selection. The competitive bid shall require the vendor to operate
40 a system that is operable on a real-time basis for 24 hours per day

1 seven days per week and is capable of interacting with purchase
2 data from other states in order to prevent a person from attempting
3 to exceed state purchase limits by crossing state lines.

4 (3) (A) A retail distributor shall provide notice electronically,
5 in writing, or by signage to purchasers at the time of purchase that
6 the information collected pursuant to the federal Combat
7 Methamphetamine Epidemic Act of 2005 and this section shall be
8 entered into a single database as specified in paragraph (2) and
9 provided to law enforcement for purposes of determining the
10 legality of a proposed sale.

11 (B) Probable cause shall be demonstrated to trigger an
12 investigation in connection with an individual whose requested
13 purchase is denied by the system a single time.

14 (C) Access by law enforcement to the data contained in the
15 system from a location other than the retailer shall be limited to
16 the records of an individual whose attempted purchase has been
17 denied by the system.

18 (4) This subdivision shall not be construed to require a retail
19 distributor to maintain state-required records relating to the sale
20 of products containing ephedrine, pseudoephedrine,
21 norpseudoephedrine, or phenylpropanolamine in a separate location
22 or log from records required by federal law to be kept with respect
23 to those products.

24 (5) The recording requirements specified in this subdivision
25 shall not apply to the sale of a single package containing not more
26 than 60 milligrams of pseudoephedrine, consistent with the federal
27 Combat Methamphetamine Epidemic Act of 2005.

28 (6) If a retail distributor experiences mechanical or electronic
29 failure of the system and is unable to comply with the recording
30 requirements of this subdivision, the retail distributor shall maintain
31 the required records in a written log or an alternative electronic
32 recordkeeping mechanism until the retail distributor is able to
33 comply with the recording requirements of this subdivision. Written
34 logs shall be maintained only for the purpose of compliance with
35 this subdivision.

36 (d) (1) The MOU shall require NADDI to forward California
37 transaction records in the system to the Department of Justice
38 weekly and provide real-time access to the information through
39 the vendor's online portal to law enforcement in the state as
40 authorized by the department.

1 ~~(2) The MOU shall constitute an enforceable contract.~~

2 ~~(3) Access to the system shall be available at no charge to the~~
3 ~~department and law enforcement in this state as authorized pursuant~~
4 ~~to paragraph (1).~~

5 ~~(4) The system shall allow retail distributors of products~~
6 ~~containing ephedrine, pseudoephedrine, norpseudoephedrine, or~~
7 ~~phenylpropanolamine to enter into the database the information~~
8 ~~specified in subdivision (c) regarding the proposed sale of those~~
9 ~~products.~~

10 ~~(5) The system shall be capable of providing the retail distributor~~
11 ~~with an immediate real-time alert any time a provision of this~~
12 ~~section is being violated by a proposed sale.~~

13 ~~(6) Neither the department nor any state agency shall bear any~~
14 ~~cost for the development, installation, or maintenance of the~~
15 ~~system.~~

16 ~~(7) The MOU shall state that no party to the MOU nor any entity~~
17 ~~under contract to provide the electronic authorization and~~
18 ~~monitoring system shall be authorized to use the information~~
19 ~~contained in the system for any purpose other than those set forth~~
20 ~~in this section, the federal Combat Methamphetamine Epidemic~~
21 ~~Act of 2005, or any regulation adopted pursuant to this section or~~
22 ~~that act. However, the system operator shall be authorized to~~
23 ~~analyze the information for the sole purpose of assessing and~~
24 ~~improving the performance and efficacy of the system. In addition,~~
25 ~~the MOU shall require that a retail distributor's access to the~~
26 ~~electronic authorization and monitoring system's database is~~
27 ~~limited solely to records of sales transactions made by that retail~~
28 ~~distributor, which access shall be solely for purposes of complying~~
29 ~~with the federal Combat Methamphetamine Epidemic Act of 2005~~
30 ~~or this section, or to respond to a duly authorized law enforcement~~
31 ~~request or court order for information collected under that act or~~
32 ~~this section.~~

33 ~~(8) The system's security program shall comply with the security~~
34 ~~standards for the Criminal Justice Information System of the~~
35 ~~Federal Bureau of Investigation and may be audited once a year~~
36 ~~by the department.~~

37 ~~(9) The use of the system by a retail distributor or vendor of the~~
38 ~~system shall be subject to Section 56.101 of the Civil Code. A~~
39 ~~retail distributor shall provide a vendor telephone access number~~
40 ~~so that purchasers who have questions regarding their purchase~~

1 denial or history may contact the vendor. A retail distributor or a
2 vendor of the system holding the data shall not maintain any
3 records collected under this system for longer than two years, or
4 as otherwise required by the federal Combat Methamphetamine
5 Epidemic Act of 2005 and shall be destroyed pursuant to Section
6 1798.81 of the Civil Code.

7 (10) Law enforcement access to the system shall be recorded
8 by means of a unique access code for each individual accessing
9 the system and an investigation number for each query. Each user's
10 history shall be maintained and may be audited by the department.

11 (11) The department may submit recommendations to NADDI
12 regarding system changes to assist in identifying false identification
13 cards.

14 (12) Disputes relating to compliance with this section arising
15 against a vendor of the system shall be subject to a court of
16 competent jurisdiction in California and shall be governed by
17 California law.

18 (e) The State Board of Equalization shall notify all retailers
19 about the requirement to submit transactions to the system no later
20 than April 1, 2014.

21 (f) This section shall not apply to a health care practitioner with
22 prescriptive authority who is currently licensed in this state.

23 (g) (1) A first violation of this section is a misdemeanor.

24 (2) A person who has previously been convicted of a violation
25 of this section shall, upon a subsequent conviction thereof, be
26 punished by imprisonment in a county jail not exceeding one year,
27 by a fine not exceeding ten thousand dollars (\$10,000), or by both
28 the fine and imprisonment.

29 (h) For the purposes of this section, the following terms have
30 the following meanings:

31 (1) "Department" means the Department of Justice.

32 (2) "Drug store" is an entity described in Code 5912 of the
33 Standard Industrial Classification (SIC) Manual published by the
34 United States Office of Management and Budget, 1987 edition.

35 (3) "General merchandise store" is an entity described in Codes
36 5311 to 5399, inclusive, and Code 5499 of the Standard Industrial
37 Classification (SIC) Manual published by the United States Office
38 of Management and Budget, 1987 edition.

(4) “Grocery store” is an entity described in Code 5411 of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition.

(5) “Retail distributor” means a grocery store, general merchandise store, drugstore, or other related entity, the activities of which, as a distributor of ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine products, are limited exclusively to the sale of ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine products for personal use both in number of sales and volume of sales, either directly to walk-in customers or in face-to-face transactions by direct sales. “Retail distributor” includes an entity that makes a direct sale, but does not include the parent company of that entity if the company is not involved in direct sales regulated by this article.

(6) “Sale for personal use” means the sale in a single transaction to an individual customer for a legitimate medical use of a product containing ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine in amounts at or below that specified in subdivision (a). “Sale for personal use” also includes the sale of those products to employers to be dispensed to employees from first aid kits or medicine chests.

(i) It is the intent of the Legislature that this section shall preempt all local ordinances or regulations governing the sale by a retail distributor of over-the-counter products containing ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine.

(j) This section shall remain in effect only until January 1, 2020, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2020, deletes or extends that date.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

O